

7363
1 BILL NO. S-79-01-29

2 SPECIAL ORDINANCE NO. S- 28-79.

3 AN ORDINANCE approving an Agreement with
4 Shambaugh & Sons, Inc., for construction
5 of a sanitary sewer.

6 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
7 INDIANA:

8 SECTION 1. That the Agreement dated January 8, 1979, between the
9 City of Fort Wayne, by and through its Mayor and the Board of Public Works
10 and Shambaugh & Sons, Inc., for:

11 SANITARY SEWER

12 "Beginning at an existing Sanitary Sewer Manhole located
13 670+ LF North of and 20+ LF East of the centerline inter-
14 section of Moeller Road and Adams Center Road; thence,
15 South along the East right-of-way line of said Adams
16 Center Road 1200+ LF terminating at a proposed manhole
located 530+ LF South of and 20+ LF East of the center-
line intersection of said Moeller Road and Adams Center
Road."

17 of which the developer shall pay the entire cost and expense of the con-
18 struction of said sewer, all as more particularly set forth in said agree-
19 ment which is on file in the Office of the Board of Public Works and is
20 by reference incorporated herein, made a part hereof and is hereby in all
21 things ratified, confirmed and approved.

22 SECTION 2. That this Ordinance shall be effective upon passage
23 and approval by the Mayor.

24
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28 
29 Councilman

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32 APPROVED AS TO FORM
AND LEGALITY,


CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by Hunter, and duly adopted, read the second time by title and referred to the Committee on City Ordinance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 1-23-79.

Charles W. Atkinson
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Talarico, and duly adopted, placed on its passage.

PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>HINGA</u>	<u>X</u>	_____	_____	_____	_____
<u>HUNTER</u>	<u>X</u>	_____	_____	_____	_____
<u>MOSES</u>	<u>X</u>	_____	_____	_____	_____
<u>NUCKOLS</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

DATE: 2-13-79

Charles W. Atkinson
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE

(RESOLUTION) No. 2-28-79 on the 13th day of February, 19____
ATTEST: (SEAL)

Charles W. Atkinson
CITY CLERK

Winifred E. Mason JR.
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of February, 1979, at the hour of 11:30 o'clock A M., E.S.T.

Charles W. Atkinson
CITY CLERK

Approved and signed by me this 20th day of February, 1979,
at the hour of 3:00 o'clock 8 P.M., E.S.T.

Robert E. Armstrong
MAYOR

Bill No. S-79-01-29

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance
approving an Agreement with Shambaugh & Sons, Inc., for construction
of a sanitary sewer

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance do PASS.

PAUL M. BURNS - CHAIRMAN

SAMUEL J. TALARICO - VICE CHAIRMAN

VIVIAN G. SCHMIDT

DONALD J. SCHMIDT

JAMES S. STIER

2-13-79 CONCURRED IN
DATE _____ CHARLES W. WATERMAN, CITY CLERK



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

board of public works

December 1, 1978

The Common Council
Fort Wayne, Indiana

Gentlemen and Mrs. Schmidt:

The Board of Works is entering into an Agreement for Sewer Extension with Shambaugh and Sons, Inc., owner and developer of land along Moeller Road and Adams Center Road where a sanitary sewer will be constructed.

Developer advises they wish to begin immediately on the construction of said sewer due to fast approaching inclement weather.

Therefore, Board of Works respectfully requests "Prior Approval" so that this sanitary sewer may be constructed immediately.

Special Ordinance for formal approval will be submitted in the very near future.

Sincerely,

BOARD OF PUBLIC WORKS

Henry P. Wehrenberg
HENRY P. WEHRENBURG, CHAIRMAN

CITY OF FORT WAYNE

Robert E. Armstrong
ROBERT E. ARMSTRONG, MAYOR

ep

APPROVED:

John J. Brown Julius R. White Dr. Mrs. T.R.
William A. Schmidt James H. Hinkle Samuel J. Talarico
John C. Nichols D. B. Blum William T. King

MEMBERS OF THE COMMON COUNCIL

ATTEST:

Charles W. Westerman
CHARLES W. WESTERMAN, CLERK

Memorandum

To BOARD OF PUBLIC WORKS Date Dec. 1, 1978
From PHIL BOLLER - WPC Engr. Dept.
Subject MOELLER ROAD - Adams Center Rd. Sanitary Sewer

COPIES TO:

Attached for your and councilmanic approval is a special agreement for sanitary sewer extension to serve subject area. The developer is asking for prior approval from council due to the fact of the fast approaching inclement weather. We recommend the Board honor the developer's request. At the time a special sewer extension permit is presented to the Board the necessary performance and guaranty bonds will be provided.

PHILIP BOLLER *PC*
PHILIP BOLLER, Chief WPC Engr.

DE/ajf

67-11-16
1/8/78

67-11-16 H.I
1/8/79

A G R E E M E N T
F O R
S E W E R E X T E N S I O N

THIS AGREEMENT, made in triplicate this 8 day of January, 1979,
by and between Shambaugh and Sons, Inc., an Indiana Corporation, hereinafter referred
to as "OWNER AND DEVELOPER", and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal
Corporation, hereinafter referred to as "CITY".

WITNESSETH:

WHEREAS, the DEVELOPER desires to construct a sanitary sewer described as follows:

Sanitary Sewer

"Beginning at an existing Sanitary Sewer Manhole located 670± LF North of and 20± LF East of the centerline intersection of Moeller Road and Adams Center Road; thence, South along the East right-of-way line of said Adams Center Road 1200± LF terminating at a proposed manhole located 530± LF South of and 20± LF East of the centerline intersection of said Moeller Road and Adams Center Road."

Said sanitary sewer shall be 10 inches in diameter, in accordance with plans, specifications, and profiles heretofore submitted to the CITY and now on file in the Office of the Chief Engineer of the Water Pollution Control Engineering Department of the CITY and known as Moeller Road Trailer Park Offsite Sanitary Sewer, which plans, specifications and profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the DEVELOPER has an interest, but also adjoining land areas, as shown on Exhibit "A".

WHEREAS, the total cost of construction of said sewer is represented to be \$23,814.00 which includes construction, engineering and City inspection fees. NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The DEVELOPER shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the CITY, under private contract with CITY approval. All work and materials shall be inspected by the CITY and conform with all CITY standards and specifications. Upon completion, said sewer shall become the property of CITY and all further maintenance thereafter shall be borne by the CITY.

2. COST OF CONSTRUCTION

The DEVELOPER agrees to pay the entire cost and expense of construction of said

sewer, in cash, and to hold the CITY harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER

Said sewer, when accepted by the CITY, will initially serve either all or a portion of the following described real estate of the DEVELOPER:

Part of the East one-half of the Southeast quarter of Section 16, Township 30 North, Range 13 East, in Allen County, Indiana; being that part lying West of the East 635.5 feet thereof, and Northward of the channel centerline of the natural water course known as the Trier Ditch and Northward of the right-of-way of the Pennsylvania Railroad; EXCEPTING therefrom the West 60 feet thereof, held and occupied by the right-of-way of Indiana-Michigan Electric Company; containing 35.86 acres of land, more or less; SUBJECT to an Easement for public road purposes upon and over the East 25 feet thereof, contingent upon the like Easement to be imposed upon the West 25 feet of the East 635.5 feet of said Tract initially mentioned; SUBJECT to an Easement upon and over an area circular in plan, having a radius of 85 feet centered at a point 695.5 feet West of the East line of the East one-half of the Southeast Quarter, Section 16, aforesaid and 2000.0 feet South of the North line of said Quarter Section; ALL in accordance with the map of the SUBJECT PREMISES being by metes and bounds described as follows, to-wit:

Commencing on the North line of said Quarter Section at a point situated 60 feet East of the Northwest corner of the East one-half of the Southeast Quarter thereof; thence running South on a line parallel to the West line of the Tract aforesaid, a distance of 2578.3 feet, more or less, to the Northeasterly right-of-way line of the Pennsylvania Railroad as presently established on a line parallel to and 60 feet normally distant Northeastward of the east-bound Main Tract centerline; thence Southeastward along the said right-of-way line, a distance of 126 feet, more or less, to its intersection by the South line of said Quarter Section; thence East on the line aforesaid a distance of 31 feet, more or less, to the left high bank of the said Trier Ditch channel at a point situated 50 feet as along the said South Quarter Section line measured Westward of the said ditch channel center; thence running Northeastward along the said ditch left high bank down-stream by a deflection left of 37 degrees 45 minutes, a distance of 166.8 feet; thence continuing along the said left high bank by a deflection right of 7 degrees 0 minutes, a distance of 235.9 feet; thence by a deflection left of 31 degrees 41 minutes, a distance of 306.7 feet; thence by a deflection left of 27 degrees 11 minutes, a distance of 2144.3 feet to the North line of said Quarter Section at a point situated 635.5 feet West of the East Quarter corner of said Section; thence West on the line aforesaid, a distance of 625.0 feet to the place of beginning; TOGETHER with the Area occupied by the left bank of said Trier Ditch between the high bank traverse line and the said ditch channel centerline, embracing therein 0.40 acres, more or less; containing 35.86 acres of land.

As the DEVELOPER will pay for the entire cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer, or the use thereof, by the present or future owners of said aforescribed real estate, except as to such standard tap-in and inspection fees as are customarily charged by the CITY for connections to City sewer main.

An area connection fee as established by the City of Fort Wayne Board of Public Works by Resolution for the proposed Trier Ditch Gravity Interceptor will be due and payable at the time the OWNER-DEVELOPER abandons his private pump station and force main and makes connection.

4. CHARGE AGAINST EXCESS AREA

Said sewer, however, also serves an additional or excess area as shown on the attached Exhibit "A". In the event any present or future owner of real estate shall at any time within fifteen (15) years of the date of this agreement, desire to use said sewer or any extension thereof, whether by direct tap or through the extension or connection of lateral or local lines to service such land, CITY, through its duly constituted authorities, before permitting such use, shall require by contract or assessment, as may be appropriate, that such owner or owners of said excess area pay to the CITY, in addition to the cost of standard tap-in and inspection fees, the sum of \$0.0539266 per square ft. for the area served by each such connection and use, which represents the pro rata share of the cost of the extension of the CITY sewer to said area. Any amount so collected by the CITY shall be paid by the CITY within sixty (60) days of the receipt thereof to the DEVELOPER.

In addition to the local charges due DEVELOPER as set forth within the above paragraph, the excess area is subject to the following:

For the areas noted on Exhibit "A" that North of Moeller Road they will be subject to the area connection fees as set forth by Resolution No. 62-381-44, Recording Document Number 76-00060, payable to the CITY.

For the areas noted on Exhibit "A" that are South of Moeller Road an area connection charge of \$500.00 per acre must be paid to CITY prior to construction. These charges are to satisfy the projected Area Connection Fees that will be due the CITY to install the Trier Ditch Interceptor.

5. BOND

This contract is subject to DEVELOPER furnishing a satisfactory Performance and Guaranty Bond for the value of the sewer, said bond to serve as a guarantee of said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the CITY.

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water run-off caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

The DEVELOPER, for itself, its successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by CITY of any territory now or hereafter owned by him, as described in Article 3 herein.

In further consideration and to induce CITY to execute and ratify this contract, said DEVELOPER, for himself, his successors and assigns, agrees by this contract to vest in CITY the permanent right at its discretion to annex to the CITY OF FORT WAYNE any future time by duly authorized ordinance the said real estate described in Article 3, herein.

DEVELOPER further agrees that any deeds, contracts, or other instruments of conveyance made by the DEVELOPER, its successors or assigns transferring or conveying any interest in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instruments from the DEVELOPER, his successors and assigns by any grantee, vendee, or contract purchaser shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser, and their successors in title.

The DEVELOPER further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of CITY as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of CITY who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by CITY of such land or of the territory in which it is located or of the area served by said sewer.

8. GOVERNING STATUTE

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Section 16, 17 and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (I.C. 19-2-7-16, 19-2-7-17 and 19-2-7-18), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

9. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of CITY, by duly adopted ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have ascribed their signatures to this Agreement
the day and year first above written.

OWNER &
DEVELOPER: SHAMBAUGH AND SONS, INC.

BY: Jim Burt
Jim Burt, Corporate Secretary

BY: Max Shambaugh
Max Shambaugh, President

STATE OF INDIANA)
COUNTY OF ALLEN) SS:

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Max Shambaugh and Jim Burt, by and who acknowledge the execution of the foregoing Agreement for sewer extension as and for its voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this FIRST day of DECEMBER, 1978.

Barbara J. Cocks
Notary Public
Resident of Allen County

My Commission Expires:
10-16-82

CITY OF FORT WAYNE, INDIANA
BY: Robert E. Armstrong
Robert E. Armstrong, Mayor

BOARD OF PUBLIC WORKS
BY: Henry P. Wehrenberg
Henry P. Wehrenberg, Chairman

BY: Ethel H. LaMar
Ethel H. LaMar, Member

BY: Max G. Scott
Max G. Scott, Member

ATTEST:
Ursula Miller
Ursula Miller, Clerk

Approved as to form and legality:
Larry J. Burke
Larry J. Burke, Associate City Attorney

STATE OF INDIANA)
COUNTY OF ALLEN) SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert E. Armstrong, Mayor; Henry P. Wehrenberg, Chairman of the Board of Public Works; Ethel H. LaMar and Max G. Scott, Members of the Board of Public Works, who acknowledge the execution of the foregoing Agreement for sewer extension, as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 8 day of January, 1979.
Anna O. Paul
Notary Public
Resident of Allen County

My Commission Expires:
3/6/80

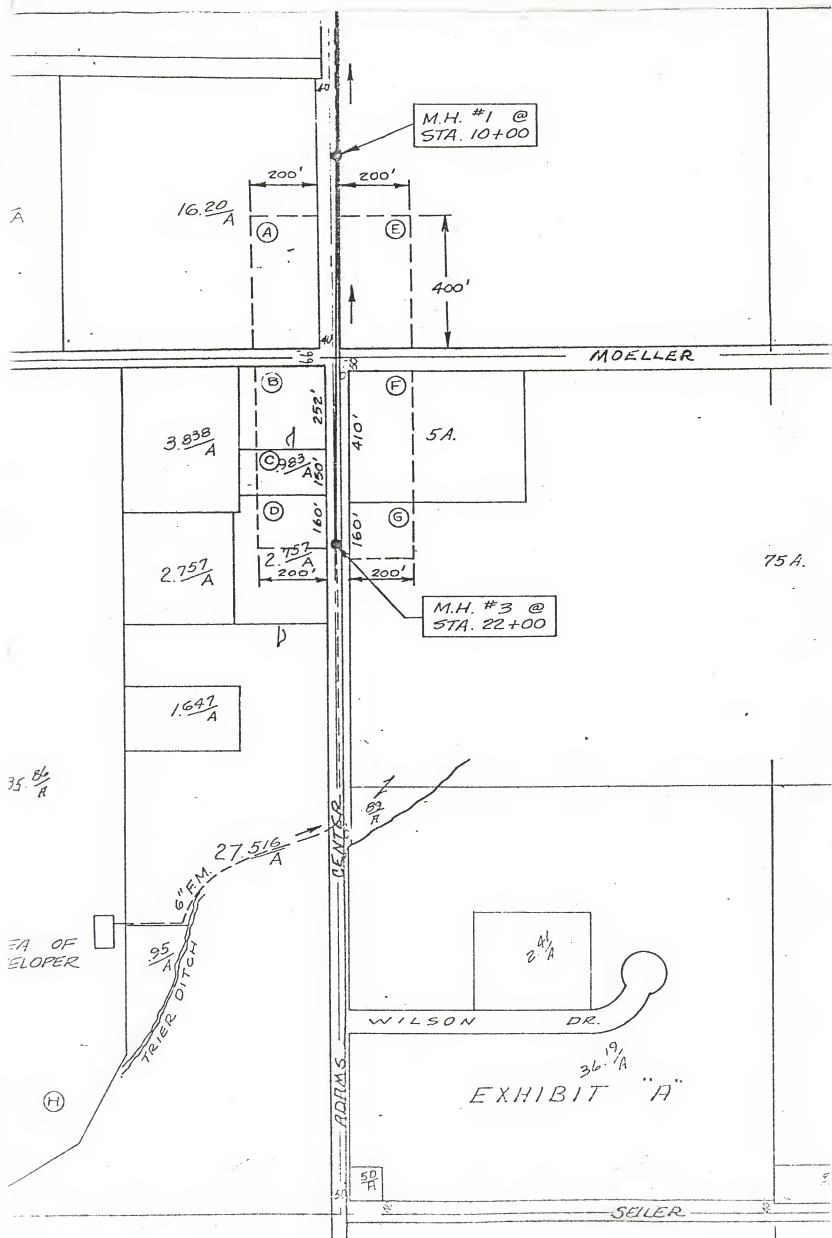


EXHIBIT B
COMPUTATIONS

Local Sewer Cost

Total Cost of Local Sewer - \$23,814.00

Total Local Benefited Area - 441,600 S.F.

Pro rata share per square foot of area served:

$$\frac{\text{Total Cost}}{\text{Total Local Area Served}} = \frac{23,814.00}{441,600 \text{ S.F.}} = \$0.0539266/\text{S.F.}$$

OWNER	AREA (IN SQ. FT.)	LOCAL SEWER EXTENSION COST PER S.F.	LOCAL SEWER TOTAL EXTENSION COST
A. Weather Head Co.	80,000	.0539266	4,314.13
B. Geo. Demos Transportation Co., Inc.	50,400	↑ ↓	2,717.90
C. Genco Tool Inc.	30,000		1,617.81
D. Illinois California Express	32,000		1,725.65
E. Wayne Haven Industrial Park	80,000		4,314.13
F. Roadway Express	82,000		4,421.98
G. Walter C. & Ludella S. Wiese	32,000		1,725.65
H. Area of Developer	<u>55,200</u>	.0539266	<u>2,976.75</u>
TOTAL	441,600 S.F.		\$23,814.00

Additional charges payable to City computed individually per benefited area shown on Exhibit "A" only.

1. Area connection fees due Res. 62-381-44
2. Area connection fees due proposed Trier Ditch Interceptor
3. Tap permit fees (variable per benefited area)

4363

TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREEMENT FOR SEWER EXTENSION - MOELLER ROAD-ADAMS CENTER RD.

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

S-79-01-29.

SYNOPSIS OF ORDINANCE AGREEMENT FOR SEWER EXTENSION WITH SHAMBAUGH & SONS, INC., FOR SANITARY
SEWER TO SERVE MOELLER ROAD AND ADAMS CENTER ROAD AREA, MORE SPECIFICALLY KNOWN AS MOELLER
ROAD TRAILER PARK OFFSITE SANITARY SEWER.

(AGREEMENT ATTACHED)

(PRIOR APPROVAL ACQUIRED)

EFFECT OF PASSAGE SANITARY SEWER TO SERVE MOELLER ROAD TRAILER PARK & ADJOINING AREA

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) DEVELOPER TO PAY ENTIRE COST & EXPENSE
OF CONSTRUCTION

ASSIGNED TO COMMITTEE